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SOUTHEASTERN CONFERENCE

11
12 **UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**
14 **OAKLAND DIVISION**

15 In re College Athlete NIL Litigation

Case No. 4:20-cv-03919-CW

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17 **DECLARATION OF CANDICE**
STOREY LEE
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1 1. I am the Vice Chancellor for Athletics and University Affairs and Athletic
2 Director of Vanderbilt University (“Vanderbilt” or the “University”). Vanderbilt is a
3 member of the Southeastern Conference (the “SEC” or the “Conference”). I make this
4 declaration of my own personal knowledge and, if called on to do so, could testify
5 competently to the facts stated herein under oath.

6 2. I graduated from Vanderbilt University with a Bachelor of Science degree in
7 Human and Organizational Development in 2000. I continued my education at Vanderbilt
8 to earn a Master’s degree in Counseling in 2002, and I subsequently completed a Doctorate
9 program in Higher Education Administration in 2012.

10 3. As an undergraduate, I was a student-athlete on the Vanderbilt women’s
11 basketball team. I was a team captain, four-year letter winner, and was on the SEC
12 Academic Honor role on five occasions. Our team won the SEC women’s basketball
13 tournament in 2002 in my final season of competition.

14 4. I began my career in athletics administration at Vanderbilt in 2002. During
15 the early stages of my tenure, I served as an academic advisor and compliance director. In
16 2004, I was named the Athletic Department’s Senior Woman Administrator, a position I
17 held until 2020. In 2016, I was named Deputy Athletic Director and assumed responsibility
18 for the day-to-day operations of the Athletic Department and served as the sports
19 administrator for football and women’s basketball. I became the Athletic Director on May
20 21, 2020.

21 5. As Vice Chancellor for Athletics and University Affairs and Athletic Director
22 of Vanderbilt University, I report to Chancellor Daniel Diermeier.

1 6. In addition to my duties with Vanderbilt, I serve on the Southeastern
2 Conference's Council on Racial Equity and Social Justice and the executive committee of
3 Black Athletic Directors Alliance. Formerly, I served as a member of the NCAA Women's
4 Basketball Rules Committee, Chair of the NCAA Division I Women's Lacrosse Committee
5 and Chair of the SEC Senior Woman Administrators. Further, I have served in various
6 capacities on the board of directors for the Tennessee Sports Hall of Fame, the Nashville
7 Sports Council, the YWCA of Middle Tennessee and The Family Center.

8 7. During my time at Vanderbilt, student-athletes have won two national
9 championships in baseball, two national championships in bowling, and one national
10 championship in women's tennis. Vanderbilt teams have also won more than 20 conference
11 championships and tournament titles, including in baseball, men's and women's basketball,
12 bowling, women's cross country, men's and women's golf, women's lacrosse, women's
13 soccer and women's tennis. Our football team has played in six bowl games since breaking
14 a 26-year bowl drought in 2008. Since 2002, our men's basketball team has played in the
15 NCAA tournament eight times and our women's basketball team has played in the NCAA
16 tournament thirteen times.

17 8. In 2020-21, Vanderbilt's student-athletes had an overall NCAA Graduation
18 Success Rate of 97%. During the 2021-22 season, our cumulative student-athlete grade-
19 point average exceeded 3.0 for the 16th straight year.

20 9. Vanderbilt student-athletes, whether full scholarship, partial scholarship, or
21 no scholarship, are provided with a number of benefits to ensure a holistic and broad-based
22 collegiate experience. These benefits are provided to all student-athletes to maintain

1 Vanderbilt's commitment to academic and athletic excellence and integrity and ensure
2 student athletes have the resources necessary to sustain success. These benefits, which
3 include, but are not limited to, support for academics, personal development, leadership,
4 career development and physical and mental health are provided at a significant cost to
5 Vanderbilt, in addition to the costs associated with Vanderbilt's athletic scholarships.

6 10. I understand that the Plaintiffs' expert witnesses have opined that in the
7 absence of NCAA rules preventing it, each conference defendant would have, at least since
8 the fall semester of 2016, shared rights fees attributable to broadcasts and other distributions
9 (internet, cable, satellite etc.) of games and events (all collectively referred to here as
10 "broadcast rights revenues" or "broadcast rights fees") with student-athletes as follows:

11 a) Each conference would determine the total of its broadcast rights fees
12 received from its own license agreements with broadcasters (such as CBS,
13 NBC, ABC/ESPN, and FOX) and also from the NCAA men's basketball
14 tournament and the College Football Playoff.

15 b) Each academic year, every football player enrolled at and receiving a
16 scholarship from a member institution in such conference would be paid 10%,
17 in equal shares, of the broadcast rights fees received by the conference that
18 Plaintiffs contend are attributable to football broadcasts (based in part on the
19 opinion of the Plaintiffs' experts that 75% of any unsegregated broadcast
20 rights fees received are attributable to football).

21 c) Each academic year, every men's basketball player enrolled at and receiving
22 a scholarship from a member institution in such conference would be paid

1 10%, in equal shares, of the broadcast rights fees received by the conference
2 that Plaintiffs contend are attributable to men's basketball broadcasts (based
3 in part on the opinion of the Plaintiffs' experts that 15% of any unsegregated
4 broadcast rights fees received are attributable to men's basketball).

5 d) Each academic year, every women's basketball player enrolled at and
6 receiving a scholarship from a member institution in such conference would
7 be paid 10%, in equal shares, of the broadcast rights fees received by the
8 conference that Plaintiffs contend are attributable to women's basketball
9 broadcasts (based in part on the opinion of the Plaintiffs' experts that 5% of
10 any unsegregated broadcast rights fees received are attributable to women's
11 basketball).

12 I further understand that Plaintiffs' experts assert or implicitly assume that 5% of the
13 value of the unsegregated broadcast rights fees received by a conference are
14 attributable to the remaining games and events, including (in the SEC) at least 13
15 other sports for every SEC member institution.

16 11. My understanding of the Plaintiffs' numbers is that, as a matter of basic
17 mathematics, at any level of assumed total broadcast rights fees, this would result in

- 18 a) larger portions of the broadcast rights fees being provided to each student-
19 athlete in conferences with fewer member schools,
20 b) different amounts paid to student-athletes in different conferences based on
21 the level of broadcast revenues received by each conference and the number
22

1 of member schools in each conference (or, more specifically, the number of
2 football and basketball student-athletes in the conference),

3 c) the same payments to scholarship athletes who are starters as to scholarship
4 student-athletes who rarely or never play in a game,

5 d) larger payments to men's basketball players than to football players attending
6 the same school, and

7 e) much smaller payments to women's basketball players attending the same
8 school as the men's basketball and football players.

9 12. I also understand that the Plaintiffs' experts have concluded that these revenue
10 sharing payments would either be made directly by each Autonomy-5 conference to the
11 student-athletes or would be distributed to the member institutions of each Autonomy-5
12 conference in restricted form, earmarked for student-athletes to be paid by the schools as
13 set forth above.

14 13. For broadcast licensing revenues to be paid to scholarship football and
15 basketball student-athletes as set forth and summarized above (herein referred to as
16 "Plaintiffs' Scenario"), the NCAA (which is made up of conferences and their member
17 institutions) would have to pass or interpret a NCAA rule to allow scholarship football,
18 men's basketball, and women's basketball players be paid up to 10% (but not more than
19 10%) of the broadcast rights revenues. Then, each of the conference defendants (the "A-5
20 conferences") and their member institutions would have to independently agree to pay 10%
21 of the broadcast rights revenues to student athletes *and* allocate revenues only to basketball
22 and football as set forth above. In other words, the SEC would have to adopt rules that

1 would implement and mandate the revenue distribution structure outlined in Plaintiffs'
2 Scenario. These rules would require that the SEC pay (or distribute funds to member
3 institutions to pay) each scholarship football, men's basketball, and women's basketball
4 student-athlete at every SEC member institution the same dollar amount of shared broadcast
5 revenues as every other scholarship student-athlete playing the same sport at every SEC
6 member institution. The rules would also require that every scholarship student-athlete be
7 paid his or her full 10% share of allocated revenues.

8 14. In the SEC, each member institution (acting through the President or
9 Chancellor of the institution) has one vote on every Conference decision or action. The SEC
10 decision-making process is collaborative and collective. When the Conference considers
11 changes to its rules concerning student-athlete eligibility and benefits or concerning
12 distribution of funds to member institutions, the Conference office solicits input on
13 proposals from the Athletics Directors (and, if their input would be relevant to consideration
14 of the proposal, the Faculty Athletics Representatives, Senior Woman Administrators, and
15 Coaches) at each member institution. Based on this input, each member institution votes on
16 every proposal. This would be the process for considering any proposal to adopt the
17 revenue-sharing structure Plaintiffs have posited. I am a participant in and have extensive
18 experience with this SEC decision-making process and understand the considerations that
19 the various member institutions take into account when voting on proposals.

20 15. For the reasons outlined below, Vanderbilt would not support or vote in favor
21 of the rules or interpretations (at the NCAA or SEC level) necessary to implement the
22 Plaintiffs' Scenario. Based on my personal experience as a student-athlete and athletics

1 administrator, and my knowledge of the competitive forces, dynamics and considerations
2 that lead to the adoption and rejection of rules in college athletes, it is unrealistic to conclude
3 or assume that Plaintiffs' Scenario would ever have been or would ever be implemented or
4 that revenue share payments would ever be made in the way outlined in Plaintiffs' Scenario.

5 16. Vanderbilt competes fiercely with other institutions both within and outside
6 the SEC to recruit student-athletes. Similarly, every A-5 institution competes for recruits
7 against institutions both inside and outside its conference. The A-5 conferences receive
8 greatly varying amounts, from conference to conference, in broadcast rights fees. (This has
9 been widely reported in the media, for example at
10 <https://awfulannouncing.com/ncaa/navigate-big-ten-sec-payouts-power-five.html>.)

11 17. By setting the share of revenues as 10% of broadcast rights fees allegedly
12 attributable to each sport, institutions in conferences with lower total broadcast rights fees
13 would be disadvantaged in recruiting. For example, because the SEC has more broadcast
14 revenue than several other conferences, those conferences would likely be at a recruiting
15 disadvantage to Vanderbilt. Similarly, under Plaintiffs' Scenario, Vanderbilt and the SEC
16 would be disadvantaged in recruiting if any other conference had higher broadcast rights
17 that resulted in a larger distribution of revenues to each student-athletes than would be the
18 case in the SEC. Even if another conference had the same amount of broadcast revenues,
19 the SEC would be at a disadvantage if that conference had fewer scholarship football and
20 basketball players. Based on my experience in the SEC and with the SEC decision-making
21 process, and on the intense competition for recruiting student-athletes, this is not a
22 distribution structure that Vanderbilt or the SEC would ever implement.

1 18. Even within the SEC, the member institutions' financial incentives and
2 concerns vary. For example, unlike some of the other SEC member institutions, the
3 distributions that Vanderbilt receives from the SEC account for the majority of Vanderbilt's
4 athletics revenue. Moreover, of all SEC institutions (and based in part on the cost of
5 attendance at Vanderbilt, a private university), Vanderbilt is spending the most money per
6 student-athlete of any SEC institution. As a result, any decrease in the distributions from
7 the SEC would impact Vanderbilt differently than other schools in the SEC, and likely
8 disproportionately disadvantage Vanderbilt. For this reason as well I would not support
9 Plaintiffs' Scenario.

10 19. Vanderbilt also could not support, implement or engage in the revenue
11 sharing structure set forth in Plaintiffs' Scenario because that Scenario would result in
12 substantially more payments and substantially larger payments to football and men's
13 basketball players than to women's basketball players. Vanderbilt is strongly committed to
14 equity and inclusion, see <https://vucommodores.com/edi/>, and to both the policy goals and
15 the legal requirements of Title IX.

16 20. Plaintiffs' Scenario assumes that 98 male players (the total scholarship limit
17 for football and men's basketball combined) and just 15 female players (which is the total
18 scholarship limit for women's basketball) receive revenue sharing payments. Plaintiffs'
19 Scenario also attributes no more than 5% of the value of broadcast rights fees to all other
20 sports. As a result, it would be mathematically impossible to balance the payments between
21 male and female student-athletes in a proportional way. In any event, gender equity goals
22

1 and policies that are important to Vanderbilt would prevent Vanderbilt from agreeing to
2 Plaintiffs' Scenario.

3 21. Vanderbilt would not be the only SEC member institution with this concern.
4 In my experience, every member institution of every defendant conference would have to
5 consider gender equity concerns inherent in Plaintiffs' Scenario. These concerns alone
6 would make it exceedingly difficult, and in my experience impossible, for either NCAA or
7 SEC rules to be interpreted or implemented in a manner consistent with Plaintiffs' Scenario.

8 22. In addition to the gender equity concerns, Vanderbilt and, in my experience,
9 other SEC member institutions would also reject Plaintiffs' Scenario because it would
10 restrict each institution's ability to direct resources as it sees fit. Vanderbilt has always been
11 free to determine where to direct its financial resources between and among different sports
12 programs. In general, Vanderbilt does so in a way that provides broad-based support for
13 student-athletes regardless of the sport they play. For example, all of Vanderbilt's student
14 athletes are eligible for the benefits Vanderbilt provides as a result of the *Alston* decision. I
15 know of no basis for Vanderbilt to agree to allocate broadcast rights fees revenues 75% to
16 football players, 15% to men's basketball players, and 5% to women's basketball players,
17 and no more than 5% to the remainder of Vanderbilt's student-athletes, as Plaintiffs'
18 Scenario requires.

19 23. At Vanderbilt, no athletic programs generate positive net revenues (more
20 revenues than expenses). Along with every other sport, our women's basketball program
21 requires subsidization because the expenses of the program exceed the revenues of the
22 program. In addition, several of our other sports (such as baseball and men's golf) have

1 experienced considerable competitive success. It would be unacceptable to me, as the
2 Athletic Director at Vanderbilt, for a share of no more than 5% of broadcast rights fees to
3 be distributed to women's basketball players, with no more than 5% remaining to be shared
4 among at least 13 other sports programs, some of which require less subsidization than
5 women's basketball.

6 24. Within limitations imposed by NCAA rules, universities fund scholarships,
7 teams and athletic programs based on numerous considerations (not limited to gender
8 equity) that are individualized to each institution. That is certainly true at Vanderbilt. I also
9 know of no reason to assume or conclude that every SEC member institution would decide
10 to pay each scholarship men's basketball player more total dollars than each scholarship
11 football player. To the best of my knowledge, football generates more revenue (or has less
12 losses) than all other sports at most A5 institutions, as is confirmed by NCAA surveys
13 available at:

14 https://ncaaorg.s3.amazonaws.com/research/Finances/2021RES_D1-RevExpReport.pdf

15 25. The majority of Vanderbilt University athletics revenues result from (a)
16 distributions from the SEC (from broadcast rights license fees received by the SEC, SEC
17 championships ticket sales, SEC sponsorships, and from NCAA distributions to the SEC of
18 a share of NCAA broadcast rights, sponsorship, and ticket sales revenue), (b) revenues from
19 sales of tickets to regular season Vanderbilt home sports competitions, (c) revenues from
20 sponsors of Vanderbilt athletics, and (d) donations from alumni and other supporters of
21 Vanderbilt athletics. Vanderbilt athletics also receive institutional support from Vanderbilt
22 University and its endowment. All of the expenses of any collegiate athletic program, other

1 than nominal reimbursements from the NCAA and conference for postseason
2 championships, etc. are incurred at the institutional level (for facilities, coaches,
3 scholarships, travel, and other direct and indirect expenses of an athletic program) and not
4 by the NCAA or conference. Under my direction, Vanderbilt Athletics operates under the
5 non-profit status of the University and therefore does not seek to generate a surplus. We
6 optimize our revenue to cover our necessary operating expenses. If a surplus is realized, it
7 is reinvested in facilities and other capital items.

8 26. Vanderbilt University has, until recently, sponsored competition in 16 (10
9 women's and 6 men's) sports. In April 2022, we announced that Vanderbilt University
10 would add women's volleyball as a sport.

11 27. If broadcast rights fees were paid by the SEC to student-athletes as
12 contemplated in the Plaintiffs' Scenario, Vanderbilt University would have to cut expenses.
13 As the Athletic Director, I would have to make decisions on how to reduce expenses and,
14 as a practical matter, would have to choose whether to (a) eliminate sports, (b) reduce the
15 amount budgeted to support each sport, and/or (c) reduce the number of student-athletes on
16 each team. For example, under Plaintiffs' Scenario, Vanderbilt would not have added
17 women's volleyball.

18 28. The revenue distribution scheme that is fundamental to Plaintiffs' Scenario
19 would create other economic incentives and disincentives that are of concern to me and that
20 would make it untenable for Vanderbilt (or, in my opinion, other SEC member institutions)
21 to support, agree to, or implement Plaintiffs' Scenario of revenue distribution. To gain an
22 advantage in recruiting incoming and transfer student-athletes, and in retaining enrolled

1 student-athletes, conferences and institutions would have strong incentives to (a) reduce the
2 number of players on the conference's teams (to increase each player's share of revenue),
3 (b) reduce the number of teams sponsored by each institution, and (c) restructure
4 conferences to reduce the number of institutions in a conference to eliminate institutions
5 with athletic programs with relatively lower value from a broadcast rights perspective (to
6 increase each institution's share of revenue). In the implausible event that Plaintiffs'
7 Scenario were to be implemented, these economic incentives and disincentives would, in
8 my experience, result in reduced opportunities for student-athletes (fewer teams, fewer
9 roster spots)—a result I would not favor or support.

10 29. I would not promote, endorse, or support the Plaintiffs' Scenario.

11
12 I declare under penalty of perjury of the laws of the United States of America that
13 the foregoing is true and correct and that this declaration was executed on March 3, 2023,
14 in Nashville, Tennessee.

15
16 
17 Candice Storey Lee